Dear Jim, Deposition transcripts, C.A.75-226 3/19/77

I suppose the transcripts are confidential until filed. I note this because I'm asking Howard and Dave via carbons about their recollections of Stombaugh's testimony before the W.C. You may also consider whether you want Howard to read the transcript for any suggestions of a factual or legal nature he may make for your use of them.

While you were not tough on Frazier, and I know afterward you said you'll have to be in the future, I think you have a good record and that his arrogance and antagonism are helpful. Where he repeatedly demands expert-witness fees at each crucial point relating to evidence about which we do NOT have ANY report, I think he is quite helpful. He directly violated the directive of the Court of Appeals, to determine whether or not there are such reports.

After reading both depositions I am satisfied that you did not go astray, did not seek to use the depositions for other purposes than establishing compliance or non-compliance.

Stonewaller that he is, practised at evasion as his years of FBI experience have made him, he helped us and he did give us testimony we need. He has testified to the existing of tests the results of which we do not have. You will find this in the notes I made while reading it, included with this.

His insufferable smugness and inappropriate arrogance when you went into the damage to the front of the shirt and the tie combined with what he testified to at least twice and I think three times combine effectively for us, I think. He did have Paul Stombaugh make an examination of the shirt-tie damages to determine exactly what you asked, did the holes overlap. We do not have it. In his case, he also testified that he gave me everything the request calls for. In fact he was with Kilty and Bresson.

Frazier further testified to the distribution of reports where Kilty did not testify to searching or having searched. They went to Dallas - all of them, and the same is true of what I think he first called downstairs and then the Communications Division. His testimony is that this Division has a copy of all reports.

In evading on the curbstone he injected another test and another report on which we have nothing. This is where he says he made a microscopic examination. We have no notes of his on this. He testified that the sketch is not his. This means that unless it is Gallagher's, and how Gallagher could have made a sketch on size and direction from a sample of the smear is not apparent, there has to have been still another test. Its existence remains secret from us. Helping us on this is his testimony that the smear if of a dimension that he would not expect of a bullet and that after reading the lab papers we got, all of them, he could not tell whether in fact a wheelweight rather than a bullet made that smear! To what end a spectre then?

He recalled that there was MAA on the windshield and Kilty denies it even though we have a record on it. He is one of the crew that stopped lab work, he testified for a matter of hours only, to examine that windshield so he had some first-person knowledge.

I think my notes will disclose another such point I've now forgotten.

His refusal to testify on the cutting of the tie after testifying that it was cut off is very helpful. You may want to combine this with the subsequent history, when Wordig got 70-2569 dismissed by assuring Gesell they would take pictures for us but not give them to me. Howard has obtained records I think I also have in which it is clear that the intent was to substitute pictures for the tie, not deny pictures. Howard would be a better source, although I might find them. I have a new request on this, denied. We may want to use this for Sheneyfelt, who I think took the pictures. We may want to subpoena the pictures taken for me and all the relevant records, especially those relating to the unknotting of the tie. Archives assured Gesell they would give me pictures of the knot, my request specified taken from the cut size, and then they say it is unknotted. How could they have given this assurance if they knew it was unknotted? The knot is the evidence.

The meaning of Frazier's testimony is that at the outset he had Stombaugh make these examinations relating to which we have no reports at all, no records of any kind. He also testified that he knew of no work after the Commission reported. In combination they fairly clearly establish the existence of the knot at the time of the Commission. Johnson told me that he transported this material from the FBI to his building and that as of then he did not know of it ever being looked at. I am sure the Archives could have presumed it was in the condition in which it was when it was entered into evidence. You may want to explore this in depositions. We are denied the reports on the work the existence of which is now sworn to and I have been denied the picture of the evidence the court was assured would be taken for me. The evidence was destroyed. I can now prove more than I did in Post Mortem that the front neck wound was above the shirt, which provides motive for the destruction of this essential evidence. It might be a nice thing to have the FBI and the Archives fight over who destroyed the evidence in the assassination of a President. (After March 31 at the earliest, though.)

If they claim this is going farther than the mandate my disposition is to seek an immediate ruling on that. We have been told by appeals to establish the existence or non-existence. I doubt any court would dare cut this off now, even Pratt. I'd not be too surprised if Pratt changes a bit after he reads Frazier on gimme money in particular.

If they decline to respond to the subpoena on the tie I'd be inclined to give the issue directly to Teddy Kennedy, although there is someone to whom I'd like to speak first. I am certain Teddy would not refuse, could not. Might even see how this can get him out of a very difficult position. It is the kind of thing that can break it open if they decline. I'd be willing to hold a press conference on it and I think it would not be ignored with a competitive situation.

It is good to have bad people as adversaries. Frazier made a very big mistake here.

It would be good to see if Stombaugh's testimony includes that examination ordered by Frazier. I'm sure it does not or is misrepresented. Frazier gave some testimony. His combination of how much t ey shuttled to and from the Commission bracketed with his saving Gallagher time, there was no other reason for his testifying to Gallagher's work, help this no end. Who can believe it, especially when Gallagher did testify and did not testify to this?

I'm sure nobody testified that the holes coincide and I'm sure kx nobody will believe Frazier's testimony that he could not tell about the knot without knowing the position of JFK's clothes on his body.

Based on Frazier's testimony I think we can now ask for what the Archives has refused me, a weighing of 399. If it confirms his testimony we lose nothing because he stuck to that testimony. If it does not we are home clear.

Cunningham testified to the tak ing of better pictures than Herb's of the markings on bullets from the rifling of the barrel. I recall no such pictures of the JFK evidence. Pictures, yes, but not such closeups.

I think you have raised the question of deposing Kilty. We now may want to, with a duces tecum subpoena. Frazier has testified to the exostence of records Kilty did not attest to searching. Frazier also testified to all the reports being in a drawer in his office, but that he did not have all the reports, contrary to his WC testimony. I have forgotten which testimony it is in but I've given you the Frazier quote and I'm pretty sure you have used it verbatim in court, perhaps on appeal in 2301. My mind's eye tells me it is toward the top of a right-hand page. Separately, his offering of the wheelweight, a nice alternative to my piece of plumbing or typemetal relating to the curbstone, is a nice thing to ask Gallagher about over his own work. I'd rather have him argue with Frazier than with me.

In some ways the timing of this is very good, in some ways not with the deposition date 3/20 and the committee's life extending now to 3/31. I do not want to help extend the life of this committee. I'd prefer any other one among the standing House committees. (Who replaced Abzug?)

The committee is concentrating on King, almost ignoring JFK. They have a live spectacle in Ray and the black caucus to apply pressure for them this way.

I did offer to Sprague to join the committee in my suits. I am sure Ken remembers this and would so testify were there the need. And of course any committee can have this afterward. Only not now. I think Achilles has shown us a heel.

You may want to consider asking Howard for an affidavit as an expert from all his years of studying the W C and its files on the meaning of the unpublished and partly-suppressed records relating to the conditions imposed on clothing examination and the substitution of pictures, from his records, with attachments he considers relevant.

You may want the same sort of thing from Roger Feinman. I turned my request of the White House for some records over to him when the JFK library said they did not have them. Roger obtained them from the LBJ library. Anterior neck wound above collar. Roger has not been able to sell a story on it, incredibly enough.

I got no transcript in 70-2569 but I do have letters, one to the judge when they did not comply and one from Rhoads to me, the oh-so-sorry one about the unknotted tie. Then not written until after my complaint. I think it all fits together as a nice supplementary package.

Whatever the outcome I favor a strong effort along these lines.

Best,

Howard- aside from any opinion or suggestions on what directly relates to you have you any clear recollection of the relevant testimony?

Dave- can you read or have someone read Stombaugh and Frazier both for all citations to references to spectro, NAA(which I'm certain are not referred to) and about the clothing in particular?